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YIP, JACK				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/736,100

Applicant(s)

GOSLING, MARTIN MILES

Examiner

JACK YIP

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-10, 13, 15 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10, 13, 15 and 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. In response to the amendment filed 2/2/2009; claims 1-3,5-10, 13,15,19-23 are pending; claim 4 is withdrawn; claims 11-12,14,16-18 are cancelled.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Drawings

3. The drawings are objected to because figs 8, 10 and 11 contain shadings. **MPEP 1503.02 II SURFACE SHADING** states "...While surface shading is not required under 37 CFR 1.152, it may be necessary in particular cases to shade the figures to show clearly the character and contour of all surfaces of any 3-dimensional aspects of the design..." However, the disclosed figures do not require shadings to illustrate the character and contour of all surfaces of any 3-dimensional aspects of the disclosed method and system.

Claim Objections

4. **Claim 2 - 3, 5 - 10, 13, 15, 19 are objected to because of the following informalities:**
5. Claims 13, 19 must be in one sentence form only.
6. Claims 2 - 3, 5 - 10, 15 use phrase "A method according to claim..." should be **"The method according to claim..."** since independent claims 1, 13 have already define the method.

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7. Claims 2, 5 - 9, 13, 15 use phrase "the said ****" should be either "the ****" or "said ****" to avoid redundant use of function words such as "the" or "said".

Appropriate correction is required.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. **Claims 1 - 3, 5 - 10, 13, 15 are rejected under 35 U.S.C. 101 because independent claims 1 and 13 state "a system and method..."** However, 35 U.S.C. 101 states "Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title". Therefore, an invention has to be either **ONE** of the following category **process, machine, manufacture, or composition of matter, or any new and useful improvement**. Since dependent claims 2 - 3, 5 - 10, 15 state "A method according to claim..."; for examination purpose claims 1 - 3, 5 - 10, 13, 15 are treated as method claims.

10. **Claims 1 - 3, 5 - 10 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention.** Supreme Court precedent (*Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) and recent Federal Circuit decisions (*In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008)) indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example, claim 1 states "a system and method to give a true..."; however, the

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method steps or acts have not positively tied to a statutory products or things to accomplish such steps or acts.

Claim Rejections - 35 USC § 112

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 2, 5, 8 - 10, 13, 15, 19 - 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claims 2, 8 - 10, 13, 19:

Claim 2 states "**the** first set of questions are answered emotionally... and **the** second set of questions are answered rationally... **the** subject matter of the said questionnaire survey"

Claims 8 - 9 state "**the** level of conviction (also known as the "weighting")"

Claim 10 states "**the** closeness of match of emotional and rational response"

Claim 13 states "**the** first part of a questionnaire in a system... based on **the** results ... **the** second part of the questionnaire..."

Claim 19 states "...see **the** results... **the** repeatability of the present invention"

There are insufficient antecedent bases for these limitations in the claims. The applicant is reminded that there are many other instances in claims 1 - 3, 5 - 10, 13, 15, 19 - 23 for insufficient antecedent bases which the examiner has not listed.

Re claim 5

Claim 5 states "a second set of said questions"; however, claim 1 has defined "the second set of questions". Therefore, it's unclear on the definition of "a second set of said question".

Re claims 13, 15, 19 - 23:

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The term "... in a system, which is either stand alone or part of a network in its broadest sense" in claims 13 and 19 is a relative term which renders the claim indefinite. The term "its broadest sense" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It's unclear on what defined as "a system which is either stand alone or part of a network in its broadest sense".

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

14. Claims 13, 15, 19 - 21, 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Olsen (US 2004/0018477 A1).

Re claim 13:

A system and method of having stored responses to the first part of a questionnaire in a system (Olsen, Abstract; [0113]; [0053]), which is either stand alone or part of a network in its broadest sense (Olsen, [0115]), from an input device (Olsen, [0042]), the said responses are processed in a central processing unit in the said system and based on the results (Olsen, [0004]), the questions for the second part of the questionnaire are dynamically arranged and presented on a display device to the respondent for completion (Olsen, fig 2, fig 5); after which the respondent's resulting input on the said input device is once again registered and processed in the said processing unit and finally stored in a storage device (Olsen, Abstract; [0019], [0113]; [0053]). At this stage a summary of the respondent's results can be

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presented to the respondent in both a textual and graphical format on the said display device (Olsen, Abstract; [0100] - [0113]).

Re claim 15:

A method according to claim 13 of giving the respondent immediate feedback in which a textual and/or graphical summary of their input is shown immediately on the said display device following their completion of the electronic questionnaire survey (Olsen, Abstract; [0100] - [0113]).

Re claims 19 - 21, 23:

[Claim 19] A system, either stand, alone or part of a network in its broadest sense (Olsen, [0115]), capable of capturing and summarising inputs from a questionnaire survey from a respondent or plurality of respondents such that each questionnaire survey originator is able to see the results not only for their own entity (Olsen, Abstract; [0100] - [0113]), but also for a plurality of entities, typically in the same industry (consisting of like-minded survey originators) thereby allowing industry wide benchmarking, which, because of the repeatability of the present invention, now becomes possible, for those surveys where such a feature would be beneficial (Olsen, Abstract; i.e. "interview"). [Claim 20] A method according to claim 19 of assigning values to the respondents emotional responses which allow a simple summary of emotional responses from a plurality of respondents by using simple addition (Olsen, Abstract; [0100] - [0113]; [0013]; [0018]; [0037], "emotional component"). [Claim 21] A method according to claim 19 of assigning values to the respondents rational responses which allow a simple summary of rational responses from a plurality of respondents by using simple addition (Olsen, Abstract; [0100] - [0113]; [0013]; [0018]; [0037], "logical component"). [Claim 23] A method according to claim 19 of presenting the results from the survey both textually and graphically so that the survey originator sees both a summary of their own entity's results for satisfaction and level of conviction as well as the results of a plurality of entities, thereby allowing an immediate benchmarking (Olsen, Abstract; [0100] - [0113]).

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[Claims 19 - 21, 23] Since claims 19 - 21, 23 state "**A method** according to claim 19...", but claim 19 is "**A system** capable of capturing and summarizing inputs from a questionnaire survey..."; therefore, limitations of claims 19 - 21, 23 are the intended use of the claimed system. For this reason, the prior art structure of Olsen is capable of performing the intended use as stated in claims 19 - 21, 23 and also meets the limitations.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen (US 2004/0018477 A1).

Olsen does not disclose adding the results of the emotional responses of all respondents in the survey originator's entity as well as their rational responses and comparing the two results, so that values can be mathematically assigned to both the entity's satisfaction and level of conviction which are representative for the whole entity and are both devoid of human emotion and repeatable. However, the examiner takes Official Notice that it was old and well known to combine responses from other respondents. Therefore, in view of Official Notice, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the system/method described in Olsen, by providing the responses from other respondents for selecting the suitable respondent of the group.

Since claim 22 states "**A method** according to claim 19...", but claim 19 is "**a system** capable of capturing and summarizing inputs from a questionnaire survey..."; therefore, limitations of claim 22 are the intended use of the claimed system. For this reason, the prior art structure of Olsen is capable of performing the intended use as stated in claims 19 - 21, 23 and also meets the limitations.

17. Claims 1-3,5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen (US 2004/0018477 A1) in view of Frost (US 5041972 A).

Re claim 1:

Olsen discloses a system and method to give a true indication of respondent satisfaction to an electronic questionnaire survey which is characterised by (Olsen, Abstract) asking the respondent or plurality of respondents to give their answers (Olsen, Abstract) to two sets of questions with both sets of questions being based on similar statements, but posed differently, so that the first set of questions are answered emotionally by the respondent and the second set of questions are answered rationally (Olsen, [0013]; [0018]; [0037])).

Olsen does not disclose ranking the responses to both sets of questions and comparing the rankings from both sets of questions. However, Frost discloses a method for evaluating consumer response. Frost further states (Frost, col 4, lines 9 - 20) "... The evaluated descriptors are then ordered according to their respective ranks in the discrimination index. The final set of attributes to be used in the final quantitative interviews is chosen from the descriptors on the bases of rank in the discrimination index and ability to provide the greatest degree of behavioral variance and usually number between 30 and 50..." Therefore, in view of Frost, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the system/method described in Olsen, by providing the ranking feature as taught by Frost, since Frost states (Frost, col 8, lines 40 - 68; col 9, lines 1 - 11) "respectively, from short to long, are ranked in the same order and are proportional to the likelihoods of purchasing each respective item, from greatest to least. The use of only two attributes, or dimensions, in FIGS. 4a and 4b is to enable a representative portion of the multi-dimensional matrix and squeeze analysis to be depicted in a two-dimensional medium. In creating the matrix and performing the squeeze analysis,,all attribute evaluations are actually utilized. The values used to weight the attributes to obtain the foregoing relationship between Euclidean distances on the matrix and degrees of likelihood of purchase are recorded as importance weights, each

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of which is assigned to the respective attribute and reflects the relative contribution of that attribute to the consumers' purchase decision."

Re claims 2 - 3:

[Claim 2] A method according to claim 1 of subdividing the subject matter of the said questionnaire survey into common groups in which the said statements are equally distributed in number amongst the groups (Olsen, fig 3; fig 5, "Question Category"; [0045]). [Claim 3] A method according to claim 1 of defining two sets of said similar statements in which both sets of statements contain sentences with the same meaning, but using different words so that the first set can be used in a set of questions designed to be responded to emotionally and the second set can be combined to answer the questions rationally (Olsen, [0013]; [0018] - [0021]; [0037] - [0038]; [0051] - [0054]).

Re claims 5 - 7:

[Claim 5] A method according to claim 1 of defining a second set of said questions in which the said questions dynamically group together a number of statements from the said second set of statements at the time of questionnaire (Olsen, fig 3; fig 5, "Question Category"; [0045] - [0046]; [0094]). [Claim 6] A method according to claim 5 of grouping together a number of statements from the said second set of statements in which the said statement groupings depend upon the respondent's answers to the first set of questions (Olsen, fig 3; fig 5, "Question Category"; [0045] - [0046]; [0094]). [Claim 7] A method according to claim 5 in which the said questions are defined so that the respondent is forced to respond rationally to the said group of statements (Olsen, [0076]).

Re claims 8 - 10:

[Claim 9] A method according to claim 1 of scoring and ranking the said responses to the said first set of questions in which the respondent's emotional response has a value calculated, which represents the level of conviction (also known as the "weighting") of the respondent's emotional responses to the said questions and then ranked (Olsen, fig 8, "Weighted Score"; [0065] - [0068]). [Claim 9] A method

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according to claim 1 of scoring and ranking the said responses to the said second set of questions in which the respondent's rational response has a value calculated, which represents the level of conviction (also known as the "weighting") of the respondent's rational responses to the said questions and then ranked (Olsen, fig 8, "Weighted Score"; [0065] - [0068]). [Claim 10] A method according to claim 1 of comparing the emotional and rational responses from the respondent or plurality of respondents in which the closeness of match of emotional and rational responses is quantifiably measured, thereby giving a value for respondent or plurality of respondents' satisfaction (Olsen, [0100] - [0113]).

Information on How to Respond to This Office Action

An examination of this application reveals that applicant is unfamiliar with patent prosecuting procedure. Applicant is reminded that the revision of the specification and claims to present the application in proper form is required. While an application can be amended to make it clearly understandable, no subject matter can be added that was not disclosed in the application as originally filed.

Applicant is advised to arrange the content of the specification as described below:

Content of Specification

- (a) Title of the Invention. (See 37 C.F.R., 1.72(a)). The title of the invention should be placed at the top of the first page of the specification. It should be brief but technically accurate and descriptive, preferably from two to seven words.
- (b) Cross-References to Related Applications: See 37 C.F.R., 1.78 and section 201.11 of the M.P.E.P. This relates to any other applications that Applicant has pending before the Patent Office.
- (c) Statement as to rights to inventions made under Federally sponsored research and development (if any): See section 310 of the M.P.E.P.
- (d) Background of the Invention: The specification should set forth the Background of the Invention in two parts:
 - (1) **Field of the Invention:** A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field".
 - (2) **Description of the Related Art:** A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art".

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- (e) Summary: A brief summary or general statement of the invention as set forth in 37 C.F.R. 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (f) Brief Description of the Drawing(s): A reference to and brief description of each of the drawing figure(s) as set forth in 37 C.F.R. 1.74.
- (g) Description of the Preferred Embodiment(s): A description of the preferred embodiment(s) of the invention as required in 37 C.F.R. 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. This item may also be titled "Best Mode for Carrying Out the Invention". Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (h) Claim(s) (See 37 C.F.R. 1.75): A claim may be typed with the various elements subdivided in paragraph form. There may be plural indentations to further segregate subcombinations or related steps. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent cited.
- (i) Abstract: The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said", should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains.

If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure.

If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement.

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In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof.

If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following: (1) if a machine or apparatus, its organization and operation; (2) if an article, its method of making; (3) if a chemical compound, its identity and use; (4) if a mixture, its ingredients; (5) if a process, the steps. Extensive mechanical and design details of apparatus should not be given.

As per 37 CFR 1.52(b), the application papers must be plainly written (preferably typed) on but one side of the paper. The size of all sheets of paper should be 8 to 8 by 10 to 13 inches (20.3 to 21.6 cm by 26.6 to 33.0 cm). Margins of at least approximately 1 inch on the left hand side and 3/4 inch on the top must be reserved on each page. The lines on each page should be double spaced to permit the insertion of amendment. The pages of application, including the claims and abstract should be numbered consecutively, starting with 1, the numbers being centrally located preferably below the text.

If Applicant wishes to continue to prosecute this patent application, applicant must reply in writing. It would be of great assistance to the Office if all incoming papers pertaining to a filed application carried the following items:

1. Serial number (checked for accuracy).
2. Group art unit number (copied from filing receipt or most recent Office Action).
3. Filing date.
4. Name of the examiner who prepared the most recent Office action.
5. Title of invention.
6. Name of Applicants.

Applicant's reply should identify the Office Action the amendment is in response to by its mailing date or paper no. and must specifically request further examination and reconsideration. Applicant or Applicant's registered representative must sign the reply.

In a reply to an Office Action, Applicant can amend the specification, drawings and claims to overcome objections and rejections as well as argue against any position taken by the Examiner.

Applicant's arguments and other pertinent comments should appear under the heading "REMARKS". In

Applicant's remarks, applicant must point out each error, if any, applicant believes the Examiner has

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made in the current Office Action and/or how any amendments Applicant has made to the specification, drawings and claims overcome the Examiner's objections and rejections. Applicant must respond to each and every ground of rejection and objection raised in the current Office Action.

To overcome the objection and rejection for lack of an enabling disclosure, Applicant can argue that the holding of non-enabling by the Examiner is in error. To be persuasive, however, such an argument must point out where, in the specification as originally filed, the specification provides the necessary detailed disclosure for supporting the claimed invention. Alternatively, the Applicant could rebut the Examiner's holding of non-enabling by submitting evidence that the disclosure as it now stands is sufficient to enable an artisan, of ordinary skill, to make and use the invention. Such evidence should take the form of patents or literature published before the filing date of Applicant's application. Alternatively, the evidence could take the form of one or more affidavits by skilled in the art, stating facts, and on the basis of their knowledge and skill, establish that, on or before the filing date of Applicant's application, one of ordinary skill in the art could make and use the claimed invention from reading the specification without undue experimentation.

Applicant can amend the specification and drawings by sending the Office a signed letter directing the Office to make the specified alterations. Amendments are governed by 37 CFR 1.121. Amendments to the specification may be made by either adding, deleting or replacing a paragraph, by replacing a section, or by a substitute specification. To delete, replace or add a paragraph the following must be included:

- (i) An instruction, which unambiguously identifies the location, to delete one or more paragraphs of the specification, replace a paragraph with one or more replacement paragraphs, or add one or more paragraphs;
- (ii) The full text of any replacement paragraph with markings to show all the changes relative to the previous version of the paragraph. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be

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used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strikethrough cannot be easily perceived;

- (iii) The full text of any added paragraphs without any underlining; and;
- (iv) The text of a paragraph to be deleted must not be presented with strike-through or placed within double brackets. The instruction to delete may identify a paragraph by its paragraph number or include a few words from the beginning, and end, of the paragraph, if needed for paragraph identification purposes.

To make an amendment by substitute specification the following must be provided:

- (i) An instruction to replace the specification; and
- (ii) A substitute specification in compliance with §§ 1.125(b) and (c).

Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered). All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1–5 (canceled)).

The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment. All claims being currently amended in an amendment paper shall be presented in the claim listing,

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indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by ~~strike-through~~ except that double brackets placed before and after the deleted characters may be used to show deletion of **five or fewer consecutive characters**. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended." The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, i.e., without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, i.e., without any underlining.

See 37 CFR 1.121. Sample amendments and common question and answers are posted at:

<http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/moreinfoamdtprac.htm>

Response to Arguments

18. Applicant's arguments with respect to claims 1-3,5-10,13,15,19-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JACK YIP whose telephone number is (571)270-5048. The examiner can normally be reached on Monday - Friday 9:30am - 5:00pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571)272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Y./

Examiner, Art Unit 3715

/XUAN M. THAI/

Supervisory Patent Examiner, Art Unit 3715